

**IN THE  
COMMONWEALTH OF VIRGINIA  
BOARD FOR BARBERS AND COSMETOLOGY**

**Re:   Ha Ngoc Chau  
      Richmond, VA 23228**

**File Number       2007-02969  
License Number   1201100856**

**FINAL OPINION AND ORDER**

On December 19, 2007, the Summary of the Informal Fact-Finding Conference ("the Summary") and notification of the Board for Barbers and Cosmetology ("the Board") January 28, 2008 meeting was mailed, via certified mail, to Ha Ngoc Chau ("Chau") at the address of record. The certified mail was received.

On January 28, 2008, the Board met and reviewed the record, which consisted of the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference ("IFF"), and the Summary. Chau did not appear at the Board meeting in person. Richard M. Alvey did appear as counsel.

The Board adopts the Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, and adopts the Summary. The Report of Findings and Summary are incorporated as part of this Order.

The Board finds substantial evidence that Chau violated the following sections of its Regulations:

(Effective July 1, 2003)  
Count 1:   18 VAC 41-20-280 A 3

The Board imposes the following monetary penalties:

Count 1:	18 VAC 41-20-280 A 3	\$2,500.00
		\$2,500.00
	TOTAL	

**The Board also imposes the following sanctions:**

**Revocation of license for the violation of the regulation.**

**THE TOTAL MONETARY PENALTY ASSESSED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THIS FINAL ORDER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF THIS FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF YOUR LICENSE (LICENSE NO. 1201100856) UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.**

**AS PROVIDED BY RULE 2A:2 OF THE SUPREME COURT OF VIRGINIA, YOU HAVE THIRTY (30) DAYS FROM THE DATE OF SERVICE (I.E. THE DATE YOU ACTUALLY RECEIVED THIS DECISION OR THE DATE THE DECISION WAS MAILED TO YOU, WHICHEVER OCCURRED FIRST) WITHIN WHICH TO APPEAL THIS DECISION BY FILING A NOTICE OF APPEAL, SIGNED BY EITHER YOU OR YOUR COUNSEL, WITH JAY W. DEBOER, SECRETARY OF THE BOARD FOR BARBERS AND COSMETOLOGY. IN THE EVENT THAT THE DECISION WAS SERVED ON YOU BY MAIL, THREE (3) DAYS SHALL BE ADDED TO THE THIRTY (30) DAY PERIOD.**

**IF A PETITION FOR APPEAL IS FILED WITH THE CLERK OF THE CIRCUIT COURT, AS PROVIDED BY RULE 2A:4 OF THE SUPREME COURT OF VIRGINIA, THEN THE AUTOMATIC SUSPENSION OF YOUR LICENSE FOR FAILURE TO PAY THE TOTAL ASSESSED MONETARY PENALTY WILL BE STAYED PROVIDED THE FOLLOWING INFORMATION IS RECEIVED BY JAY W. DEBOER, SECRETARY OF THE BOARD FOR BARBERS AND COSMETOLOGY:**

- 1. A SIGNED COPY OF THE NOTICE OF APPEAL; AND**
- 2. A COPY OF THE SURETY AGREEMENT OR A COPY OF THE RECEIPT FROM THE CLERK OF THE CIRCUIT COURT WHERE THE APPEAL HAS BEEN FILED INDICATING THAT A BOND HAS BEEN POSTED OR CASH PAID INTO THE COURT IN THE AMOUNT OF THE TOTAL MONETARY PENALTY ASSESSED IN THE FINAL ORDER.**

**SO ORDERED:**

Entered this 28<sup>th</sup> day of January, 2008.

Board for Barbers and Cosmetology

BY:

  
Jay W. DeBoer, Secretary

**IN THE**  
**COMMONWEALTH OF VIRGINIA**  
**BOARD FOR BARBERS AND COSMETOLOGY**

Re: Ha Ngoc Chau

File Number: 2007-02969  
License Number: 1201100856

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On September 14, 2007, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Ha Ngoc Chau ("Chau") at the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter.

On October 12, 2007, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Richard M. Alvey, Esquire, counsel for Chau. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter.

On December 11, 2007, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Richard M. Alvey, Esquire appearing on behalf of his client Chau, BeBe Tran, Interpreter, Ilona LaPaglia, Staff Member; and Ann-Marie Brigil, Presiding Officer.

**RECOMMENDATION**

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

During the IFF conference Alvey stated Chau did not take an exam in Virginia nor did she attend school in Virginia. Alvey stated his client had prior experience in cosmetology in her home country of Vietnam.

Alvey explained Phan met a man who advised he could help her obtain her Virginia cosmetology license. Alvey stated his client provided her name, social security and date of birth to this individual and also paid him a fee of approximately \$2000 in cash. Alvey said approximately two (2) weeks after Chau paid the fee, she received her cosmetology license in the mail. Also, Alvey stated Chau never took an exam and has never been licensed as a cosmetologist in Pennsylvania. Further, Alvey advised that


his client was unaware that the certification of licensure from Pennsylvania that was used to obtain her Virginia cosmetology license was fraudulent and that Chau did not complete nor did she sign the application for a Virginia Cosmetology license.

Count 1: Board Regulation

Based on the information contained in the record, it is clear to me that the licensing documents submitted with the application, purporting to be from the Commonwealth of Pennsylvania, were in fact not genuine. The documents that the Board's agent obtained directly from the Commonwealth of Pennsylvania State Board of Cosmetology prove that Ha Ngoc Chau did not hold a valid license in Pennsylvania, and therefore, was not entitled to obtain a license from the Virginia Board based on endorsement.

Whether Ha Ngoc Chau thought the documents attached to the application were authentic is not controlling; the evidence in the record establishes they were not. Had the Virginia Board known this, it would not have issued the license. Whether Ha Ngoc Chau was an active participant in creating the fraudulent documents is likewise not relevant. It is clear the license issued by the Virginia Board is not supported by proper licensure in Pennsylvania; and therefore, is not valid and cannot stand.

Ha Ngoc Chau actions of submitting fraudulent/false documents with his/her application for licensure is a violation of Board Regulation 18 VAC 41-20-280.A.3. Therefore, I recommend revocation of the license be imposed and that the Board impose a monetary penalty of \$2,500.

By:  Date: 12/18/07  
Ann-Marie Brigil  
Presiding Officer

Board for Barbers and Cosmetology

#### **MONETARY PENALTY TERMS**

**THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.**

**VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATIONS DIVISION**

**REPORT OF FINDINGS**

**BOARD:** Board for Barbers and Cosmetology  
**DATE:** September 13, 2007  
  
**FILE NUMBER:** 2007-02969  
**RESPONDENT:** Ha Ngoc Chau  
**LICENSE NUMBER:** 1201100856  
**LICENSE TYPE:** Cosmetology Cosmetologist  
**EXPIRATION:** January 31, 2008

**COMMENTS:**

The Commonwealth of Pennsylvania is conducting an investigation to determine how fraudulent Certifications of License were issued.

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Ha Ngoc Chau was at all times material to this matter a regulant of the Virginia Board for Barbers and Cosmetology ("the Board").

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

**BACKGROUND:**

On or about January 2007, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received information from Zelda Dugger, Board administrator, regarding Ha Ngoc Chau obtaining a license from the Board by submitting a fraudulent Pennsylvania Certificate of License as part of the application. (Exh. C-1)

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**1. Board Regulation**

18 VAC 41-20-280. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.

- A. The board may, in considering the totality of the circumstances, fine any licensee, certificate holder, or permit holder, and to suspend or revoke or refuse to renew or reinstate any license, certificate, or permit, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board if the board finds that:
3. The licensee, certificate holder, permit holder or applicant obtained, renewed or reinstated a license, certificate, or permit by false or fraudulent representation

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003.*

**FACTS:**

Ha Ngoc Chau submitted to the Board an application for a Cosmetology Cosmetologist license by endorsement. Attached to the application was a Certification of License from the Commonwealth of Pennsylvania State Board of Cosmetology, purportedly showing Ha Ngoc Chau was licensed in Pennsylvania and was in good standing. Based in part on the certification from Pennsylvania, the Board issued Ha Ngoc Chau a license (license number 1201100856) pursuant to 18 VAC 41-20-30. (Exh. C-1)

According to information received from the Commonwealth of Pennsylvania State Board of Cosmetology, Ha Ngoc Chau did not hold a valid license in Pennsylvania, nor did Pennsylvania have any record of issuing a Certification of License for Ha Ngoc Chau (Exh. C-1)